

**RULES  
OF  
TENNESSEE DEPARTMENT OF HUMAN SERVICES  
FAMILY ASSISTANCE DIVISION**

**CHAPTER 1240-1-22  
AFDC INTENTIONAL PROGRAM VIOLATIONS**

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**1240-1-22-.01 INTENTIONAL PROGRAM VIOLATIONS DEFINED.** An intentional program violation is an action by an individual for the purpose of establishing or maintaining a family's eligibility for AFDC, or for increasing or preventing a decrease in the amount of the grant, which is intentionally a false or misleading statement or a misrepresentation, concealment, or withholding of facts, or any act intended to mislead, misrepresent, conceal, or withhold facts or propound a falsity.

*Authority:* TCA §§71-1-105(12), 71-3-109, and 71-3-120; 42 USCA §616; 45 CFR §§235.112 and 235.113.  
*Administrative History:* Original rule filed April 15, 1993; effective May 30, 1993.

**1240-1-22-.02 NOTICE OF POLICY REGARDING DISQUALIFICATION PENALTIES.**

- (1) All AFDC applicants must be provided a written notice informing them of the disqualification penalties for fraud under chapter 1240-5-15 at the time of application.
- (2) Individuals who are AFDC recipients on the effective date of this chapter must be provided such written notice no later than the next redetermination for AFDC.

*Authority:* TCA §§71-1-105(12), 71-3-109, and 71-3-120; 42 USCA §616; 45 CFR §§235.112 and 235.113.  
*Administrative History:* Original rule filed April 15, 1993; effective May 30, 1993.

**1240-1-22-.03 PRE-HEARING INVESTIGATION REQUIREMENTS.** Prior to conducting an administrative disqualification hearing under chapter 1240-5-15, an investigation of an allegation that a person committed an intentional program violation must be conducted.

*Authority:* TCA §§71-1-105(12), 71-3-109, and 71-3-120; 42 USCA §616; 45 CFR §§235.112 and 235.113.  
*Administrative History:* Original rule filed April 15, 1993; effective May 30, 1993.

**1240-1-22-.04 ADMINISTRATIVE ACTIONS PENDING DISQUALIFICATION PROCEEDINGS.**

Pending the outcome of a disqualification proceedings, pursuant to chapter 1240-5-15, DHS may take any necessary action to discontinue, terminate, suspend, or reduce assistance, or change the manner or form of payment to a protective, vendor, or two-party payment for reasons unrelated to the reason for disqualification hearing.

*Authority:* TCA §§71-1-105(12), 71-3-109, and 71-3-120; 42 USCA §616; 45 CFR §§235.112 and 235.113.  
*Administrative History:* Original rule filed April 15, 1993; effective May 30, 1993.

**1240-1-22-.05 DISQUALIFICATION PENALTIES.**

## Rule 1240-1-22-.05, continued

- (1) *Scope.* An individual who, on the basis of a plea of guilty, nolo contendere (no contest), or otherwise, is found to have committed an intentional program violation after the results of an administrative disqualification hearing (ADH) or by a state or federal court will be disqualified from participating in the AFDC program. The disqualification penalty is limited to the individual(s) found guilty of having committed an intentional program violation.
- (2) *Penalty.* An individual found to have committed an intentional program violation as set forth in this chapter shall not have his or her individual needs taken into account when determining the assistance unit's need and amount of assistance, but any resources and income of the disqualified individual will be considered available to the assistance unit.
- (3) *Duration Of Penalty.* Upon the first occasion of any such offense, the individual's needs shall not be taken into account for six months; 12 months upon the second occasion of any such offense; and permanently upon the third or a subsequent occasion of any such offense.
- (4) *Applicability Of Penalty.* In cases where disqualification penalties and other sanctions or penalties apply:
  - (a) The disqualification penalty imposed under this chapter shall be in addition to, and shall not be substituted for, any other sanctions or penalties which may be imposed by law for the same offenses.
  - (b) The disqualification penalties imposed under this chapter only affect the individual concerned and cannot be substituted for other sanctions under the AFDC program (e.g., failure to participate in JOBS or to cooperate in obtaining child support).
- (5) *Imposition Of The Disqualification Penalty.*
  - (a) A disqualification penalty will be imposed only after the issuance of a final administrative order finding the individual guilty of committing an intentional program violation and the period of disqualification will commence no later than the second month following the date of the final order, or, in the event of a finding by a state or federal court that the individual is guilty of committing an intentional program violation, the penalty will be imposed according to the terms of the court order. If the court order is silent on imposition of the penalty, the penalty will begin no later than the second month following the date of the court order.
  - (b) Where the individual's disqualification results from a prior receipt of AFDC and the case is closed, the disqualification will be postponed until after a reapplication for AFDC is approved.
- (6) *Notice Of Disqualification.* The Department of Human Services shall cause to be sent to the individual who has been found to have intentionally violated this program by a final order as found in rule 1240-5-15 or has entered into a consent agreement as provided in rule 1240-1-22-.06 a notice which contains at least the following:
  - (a) The period of disqualification as provided for in this section;
  - (b) The amount of payment the unit will receive during the disqualification period; and
  - (c) In cases of an individual's disqualification resulting from a prior receipt of assistance, the disqualification will be postponed until after a reapplication for AFDC assistance is approved.

(Rule 1240-1-22-.05, continued)

- (7) *Stay Of Penalty.* Any period for which a disqualification penalty is imposed shall remain in effect, without possibility of an administrative stay, unless and until a finding upon which the penalty was based is subsequently reversed by a court of appropriate jurisdiction; but in no event shall the duration of the period for which the penalty is imposed be subject to review.

**Authority:** TCA §§71-1-105(12), 71-3-109, and 71-3-120; 42 USCA §616; 45 CFR §§235.112 and 235.113.  
**Administrative History:** Original rule filed April 15, 1993; effective May 30, 1993.

#### **1240-1-22-.06 COURT ACTIONS ON CONSENT AGREEMENT.**

- (1) The Department of Human Services may enter into an agreement with the local district attorneys office allowing said district attorney to enter into consent agreements with accused intentional program violators. The agreement shall be filed with a court of competent jurisdiction and approved by the court. Prior to entering into a consent agreement with the accused individual, the district attorneys office shall send advance written notice to the accused of the consequences of entering into such an agreement. The advance written notice, prepared by the Department of Human Services, shall contain at a minimum the following:
- (a) A statement for the accused individual to sign that he or she understands the consequences of signing the agreement, along with a statement that the caretaker relative must also sign the agreement if the accused individual is not the caretaker relative;
  - (b) A statement that signing the agreement will result in a reduction in payment for the appropriate period; and
  - (c) A statement of which disqualification period will be imposed as a result of the accused individual signing the agreement.

**Authority:** TCA §§71-1-105(12), 71-3-109, and 71-3-120; 42 USCA §616; 45 CFR §§235.112 and 235.113.  
**Administrative History:** Original rule filed April 15, 1993; effective May 30, 1993.